

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

GORDON MARTINES,

Plaintiff,

vs.

LAS VEGAS METROPOLITAN
 POLICE DEPARTMENT, et al.,

Defendants.

Case No. 2:12-cv-01441-LDG-NJK

ORDER DENYING DISCOVERY PLAN
 (Docket No. 28)

Pending before the Court is the parties' proposed joint discovery plan, Docket No. 28, which is **DENIED** for the reasons discussed below.

The pendency of a motion to dismiss alone does not in itself stay discovery deadlines. *See, e.g., Tradebay, LLC v. eBay, Inc.*, 278 F.R.D. 597, 600 (D. Nev. 2011) ("The Federal Rules of Civil Procedure do not provide for automatic or blanket stays of discovery when a potentially dispositive motion is pending."). Indeed, the Local Rules are written to make clear that the deadlines for the Rule 26(f) conference and, consequently, the filing of the proposed discovery plan are triggered when the first defendant "answers *or otherwise appears*." Local Rule 26-1(d) (emphasis added). Similarly the presumptively reasonable discovery period is 180 days from the date the first defendant "answers *or appears*." *See* Local Rule 26-1(e)(1) (emphasis added).

Defendants filed a partial motion to dismiss and an answer in this case on December 17, 2012. Docket No. 12, 13. As a result (and as referenced on the docket), the stipulated discovery plan was due

no later than January 31, 2013. *See* Docket No. 12 (“Discovery Plan/Scheduling Order due by 1/31/2013”); *see also* Local Rule 26-1(d) (“Counsel for plaintiff shall initiate the scheduling of the Fed. R. Civ. P. 26(f) meeting within thirty (30) days after the first defendant answers or otherwise appears. Fourteen (14) days after the mandatory Fed. R. Civ. P. 26(f) conference, the parties shall submit a stipulated discovery plan and scheduling order”).

The parties failed to comply with the deadlines for holding the Rule 26(f) conference and submitting their stipulated discovery plan. *See* Docket No. 28 (Rule 26(f) conference held on January 29, 2013; stipulated discovery plan filed February 26, 2013). Moreover, the parties seek a discovery period of 180 days from the date of their late-held Rule 26(f) conference. *See id.* at 2. This is a discovery period of roughly 43 days beyond the presumptively reasonable 180-day discovery period calculated from the date of Defendants’ first appearance. The parties fail to provide any explanation why the Court should grant an extended discovery period, as required by Local Rule 26-1(d).¹

For the reasons discussed above, the pending stipulated discovery plan is **DENIED**. The parties are ordered, no later than March 4, 2013, to file another proposed discovery plan that either (1) is based on the 180-day discovery period outlined in Local Rule 26-1(e)(1) or (2) provides explanation why a longer period should be granted.

IT IS SO ORDERED.

DATED: February 27, 2013



NANCY J. KOPPE
United States Magistrate Judge

¹ The parties further fail to identify the date the first defendant answered or otherwise appeared, as required by Local Rule 26-1(e)(1).